

## Message Text

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ORIGIN ERDA-07

INFO OCT-01 NEA-10 ISO-00 OES-07 L-03 AID-05 IO-13  
ACDA-07 NRC-05 CIAE-00 INR-07 NSAE-00 /065 R

DRAFTED BY ERDA:WNEUSTEDT/FFALCI:EI  
APPROVED BY NEA/INS:DKUX  
L/OES - MR. SIEGAL  
OES - MR. COOPER

-----006246 202243Z /65

O 202215Z JUL 77  
FM SECSTATE WASHDC  
TO AMCONSUL BOMBAY IMMEDIATE  
INFO AMEMBASSY NEW DELHI IMMEDIATE

C O N F I D E N T I A L STATE 169689

E.O. 11652: GDS

TAGS: TECH, IN

SUBJECT: TARAPUR FUEL STORAGE STUDY

REF: (A) BOMBAY 1624; (B) BOMBAY 1632; (C) BOMBAY 1650;  
(D) BOMBAY 1564; (E) BOMBAY 1563; (F) STATE 168761; (G)  
BOMBAY 1685

1. AFTER REVIEWING THE REACTIONS OF SHAH AND SETHNA, AS  
EXPRESSED IN REFTELS A, B, C, WITH ERDA OFFICIALS, WE HAVE  
PROPOSED A NEW APPROACH (REFTEL F) TO RESOLVE THE THREE  
REMAINING OUTSTANDING ISSUES IMPEDING THE CONCLUSION OF A  
USG/GOI AGREEMENT.

2. SPECIFICALLY, THE THREE ISSUES ARE (1) THE CONDITIONS  
UNDER WHICH GE PROPRIETARY DATA WILL BE REVEALED BY GE AND  
WHETHER THESE CONDITIONS "LOCK" GOI INTO DEALING WITH GE;  
(2) THE EXTENT OF THE ACTUAL WORK SCOPE, WHEREIN ERDA IS  
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ABLE AND WILLING AT THIS TIME ONLY TO DELIVER A FEASIBILITY  
STUDY, AND NOT TO INCLUDE AN ACTUAL DESIGN FOR A POSSIBLE  
INCREASE IN SPENT FUEL POOL STORAGE CAPACITY (A "FIX"),  
AND (3) GE'S DEMAND FOR A NEW SENTENCE EXPRESSLY STATING  
ITS INDEMNITY RIGHTS.

3. THE NEW APPROACH REGARDING PROPRIETARY DATA, WHICH IS A

FURTHER SUBSTANTIAL CONCESSION TO THE CONCERNS OF SHAH AND SETHNA, IS THAT ERDA WILL BUY LIMITED RIGHTS FROM GE TO ITS PROPRIETARY DATA, BUT ONLY TO THE EXTENT THAT SUCH PROPRIETARY DATA WILL BE GENERATED DURING, OR PROVIDED AS A PART OF, THE FEASIBILITY STUDY (BOTH PHASES). THIS LIMITATION SHOULD BE EMPHASIZED TO SHAH AND SETHNA BECAUSE THE ACTUAL DATA PROVIDED MAY NOT BE THE TOTALITY OF DATA WHICH MAY BE REQUIRED FOR AN EVENTUAL "FIX." SUCH PROPRIETARY DATA AS IS DELIVERED BY GE IN THE ARRANGEMENT, HOWEVER, IS AVAILABLE FOR USE IN THE "FIX." THE MERIT OF THIS NEW PROVISION IS THAT IT NOW ALLOWS US SUBSTANTIALLY (EXCEPT GOI PROPOSED CHANGE FROM "OF" TO "FOR" NOTED IN REF G) TO ACCEPT THE GOI VERSION OF CLAUSE 8(E) AS EXPRESSED IN REF D. OUR POSITION ON CLAUSE 8(E), WHICH IS IN MAJOR PART ACCEPTABLE TO US AND WHICH SHOULD BE SATISFACTORY TO GOI, IS COVERED IN REF F.

4. IT SHOULD BE EMPHASIZED TO SHAH AND SETHNA THAT OUR ACCEPTANCE OF THE MORE IMPORTANT PART OF GOI VERSION OF 8(E) IS A MAJOR CONCESSION.

5. REGARDING THE SCOPE OF WORK ISSUE RAISED BY SHAH IN REFTTEL A WHEREIN HE DESIRES DESIGN DATA FOR A "FIX," ERDA IS SIMPLY UNABLE TO PERFORM THIS BECAUSE OF SERIOUS DOUBTS REGARDING ITS OWN STATUTORY POWERS AND MOREOVER IT HAS CONFIDENTIAL

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NO FUNDS FOR THIS PURPOSE. IN A MEETING ON 7/13/77 WITH ERDA REPRESENTATIVES AND WITH DR. ANANDA KRISHNAN, INDIAN SCIENTIFIC COUNSELOR, DR. KRISHNAN EXPRESSED THE OPINION THAT IN HIS VIEW SHAH WAS PROBABLY ONLY REACTING IN A WAY WHICH WAS "TYPICAL UNDER THE PRESENT ENVIRONMENT." HE FELT THAT SHAH WAS NOT ADAMANT ON THIS DEMAND FOR DESIGN. REGARDLESS OF SHAH'S VIEW, WE CANNOT COMMIT TO DELIVERING DESIGN WORK.

6. THE ADDITIONAL SENTENCE AT THE END OF CLAUSE 9 STEMS FROM DEEP GE CONCERNS REGARDING EFFICACY OF INDEMNITY PROVISIONS UNDER INDIAN LAW AND THEIR CONTINUING DISSATISFACTION WITH THE GOI LEGAL OPINION WHICH DOES NOT ADDRESS THIS MATTER (REF E).

7. WE BELIEVE IT SHOULD BE MADE CLEAR TO GOI THAT LATITUDE IN NEGOTIATION WITH GE, AND ERDA ABILITY TO MAKE FURTHER CONCESSIONS HAVE BEEN EXHAUSTED. IF WE CANNOT REACH AGREEMENT AS PRESENTLY SET FORTH, ERDA WOULD BE FORCED TO SEEK ANOTHER CONTRACTOR. THIS WOULD RESULT IN FURTHER DELAY, PROBABLY BEYOND THAT ACCEPTABLE TO EITHER GOI OR USG, AND PROBABLY A LESS USEFUL PRODUCT. ASSUMING, AS WE MUST, THAT

A COMPETITIVE PROCUREMENT WOULD HAVE TO BE USED (BECAUSE ONLY GE CAN NOW QUALIFY AS A "SOLE SOURCE") IT WOULD TAKE

AT LEAST 6 MONTHS TO SELECT A NEW CONTRACTOR. WE HOPE THAT THE LATEST CHANGES WILL WRAP UP THE GOI/USG AGREEMENT AND ALLOW US TO HAVE GE PEOPLE AT TARAPUR TO COINCIDE WITH THE FORTHCOMING NYE VISIT. VANCE

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## Message Attributes

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**Channel Indicators:** n/a  
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